

Defibrillators do not qualify for the low rate of tax provided to medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

January 9, 2006

Dear Xxxxx:

This letter is in response to your letter received by our office on March 28, 2005, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is in the business of manufacturing and selling automatic external defibrillators (AED's) and accessories. AED's are used in sudden cardiac arrest emergencies to correct abnormalities in the heart's electrical system. An AED's main function is to give an electrical charge to the heart to stimulate a normal heart beat. AED's can withstand repeated use, are used exclusively to serve a medical purpose, are not useful to a person in absence of illness, injury or physical incapacity and can be used in the home or at the hospital. Other functions of defibrillators can be monitoring of the pulse, blood pressure, oxygen saturation and other vital statistics.

The question is, would durable medical products (AED's) be exempt from sales tax? Would the accessories for them also be exempt, i.e. batteries, disposable electrodes, hard paddles (re-useable), adaptors, cables etc.? AED's may or may not need a prescription or licensed/certified person to administer or prescribe. For more information regarding the details of our defibrillators and their functions feel free to take a look at our website.

Could you please send us an official ruling regarding the taxability of an AED, related accessories and supplies in your state.

If you have any further questions please feel free to call me. I appreciate your help in clearing up this question.

DEPARTMENT'S RESPONSE:

In general, in Illinois all gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided. Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescriptions and nonprescription medicines, drugs, medical appliances, insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medical appliance is defined as any item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate. The Department has determined that defibrillators generally do not qualify for the lower rate of tax. See the Department's website listed below for letter rulings ST-95-0064 and ST-92-0222 on this issue.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk